

**Effective 2/19/04**

## **4000 Unsafe School Choice Option Policy**

- (a) **Unsafe school choice** - Each local education agency shall ensure that any student who either attends a persistently dangerous public elementary or secondary school, or is a victim of a violent criminal offense that occurred in or on the grounds of a public elementary or secondary school that the student attends, shall be allowed to attend a safe public school at the same grade level within that local education agency. For purposes of this section, a “safe public school” shall mean a public school that has not been designated by the Department of Education as a persistently dangerous public elementary or secondary school.
- (b) **Persistently dangerous school** – Each local education agency shall, by June 1, furnish data requested by the Commissioner on whether its schools are persistently dangerous. If data becomes available after June 1, but before June 30, the report shall be amended by the local education agency. The Commissioner shall determine by June 30 whether and which schools are persistently dangerous. A school shall be designated as persistently dangerous if all of the criteria in (1) – (3) below are met for each of the immediately prior three school years:
- (1) 3% or more of the student enrollment or, with respect to a school with a student enrollment of less than a hundred, at least three students, have been expelled for violence-related incidents that occurred in or on the grounds of the school;
  - (2) One or more students have been expelled for possessing a weapon in or on the grounds of the school. For purposes of this section “weapon” means a dangerous or deadly weapon within the meaning of 13 V.S.A. §4016(a)(2); and
  - (3) 3% or more of the student enrollment or, with respect to schools with a student enrollment of less than a hundred, at least three students, have been determined to be victims of violent criminal offenses and have exercised the school choice option described in subsection (a), above. This criterion is inapplicable with respect to any school year prior to July 1, 2003.
- (c) **Duration of designation** – A school that has been designated as being persistently dangerous shall continue to be so designated until such time as two consecutive school years have passed in which the school has met less than all of the criteria set forth in subsections (b)(1) - (3), above.
- (d) **Victims of violent criminal offenses** – When a student seeks to exercise school choice as the victim of a violent criminal offense, the principal shall determine whether that student is the victim of a violent criminal offense that occurred in or on the grounds of the school that the student attends. Such principal shall, prior to making any such determination, consult with any law enforcement agency investigating such alleged violent criminal offense and consider any reports or records provided by such agency. The principal may conclude that a student has been a victim of a violent criminal offense where either: (1) the perpetrator has admitted the violent conduct, or (2) the evidence against the perpetrator allows for no

reasonable doubt that he or she committed the offense. The determination of the principal may be appealed by or on behalf of a student claiming to be the victim of a violent offense to the superintendent, and then to the school board for the district. For purposes of this section, "violent criminal offense" shall mean any simple assault as defined in 13 V.S.A. §1023 that results in bodily injury, or any crime listed under 13 V.S.A. §5301(7)(A)-(I), (M), (N) & (P)-(T).

- (e) **Transfer** - Any student who transfers to a safe public school pursuant to subsection (a), above, shall be enrolled in the classes and other activities of the public school to which such student transfers in the same manner as all other children at that public school.
- (f) **Notification** - Each local education agency that is required to provide school choice pursuant to the provisions of this section shall promptly notify parents of, or persons in parental relation to students: (1) attending schools that have been designated as persistently dangerous, or (2) who are victims of violent criminal offenses of their right to transfer to a safe public school within the local education agency, and of the procedures for such transfer. Nothing in this section shall be construed to require such notification if there are no other public schools within the local education agency at the same grade level.
- (g) **Duration of unsafe school choice** – Any student who transfers to a safe public school pursuant to subsection (a), above, shall be permitted to remain in such safe public school until the end of the last grade-level offered at the school from which he or she transferred.
- (h) **Designating a safe public school** - When a school has been designated as a persistently dangerous public elementary or secondary school, or when a student has been the victim of a violent criminal offense that occurred in or on the grounds of a public elementary or secondary school that the student attends, it shall be the responsibility of the local education agency, after consultation with the student's parents, based on objective criteria, to designate a safe public school or schools within the local education agency to which the student(s) may transfer. Nothing in this subdivision shall be construed to require a local education agency to designate a safe public school if there are no other public schools within the local education agency at the same grade level.
- (i) **Transportation** - Consistent with the criteria of its transportation policy, the local education agency shall provide transportation for any student permitted to transfer to the safe public school within the local education agency it has designated pursuant to subdivision (h) of this section.
- (j) **Definition of local education agency** – For purposes of this section, "local education agency" shall mean a school district, as defined in 16 V.S.A. §11(a)(10).